

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. 5:19-cv-00539
)
WILLIAM R. DAVIS,)
)
Defendant.)
_____)

UNITED STATES COMPLAINT

Plaintiff, United States of America, pursuant to 26 U.S.C., Section 7401, at the direction of the Attorney General of the United States, or his delegate, and at the request of the Secretary of the Treasury, or his delegate, files this Complaint against Defendant, William R. Davis and states as follows:

NATURE OF ACTION

1. This is a civil action brought by the United States of America pursuant to Sections 7401 and 7402 of the Internal Revenue Code of 1986, as amended (26 U.S.C.) ("the Code"), to reduce to judgment federal tax liabilities assessed against William Davis.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 26 U.S.C. Section 7402 and 28 U.S.C. Sections 1340 and 1345.

3. Venue of this action properly lies in this district pursuant to 28 U.S.C. Sections 1391(b) and 1396.

THE PARTIES

4. Plaintiff is the United States of America.

5. Defendant, William R. Davis, is the taxpayer in this action and can be served at his residence in San Antonio, Texas 78209.

THE TAX LIABILITY

6. Maverick Underground, LLC was formed on December 14, 2007. William Davis was a member of Maverick Underground, LLC. Maverick Underground, LLC failed to pay payroll taxes for the periods listed in paragraph 7 below. On July 29, 2011, Maverick Underground, LLC's charter was forfeited pursuant to Section 171.309 of the Texas Tax Code. Texas Tax Code Ann. § 171.252 provides that if the corporate privileges of a corporation are forfeited under this subchapter, then each director or officer of the corporation is liable for the debt of the corporation as provided by § 171.255. Texas Tax Code § 171.255 provides that if the corporate privileges of a corporation are forfeited for failure to file a report or pay a tax or penalty, each director or officer of the corporation is liable for each debt of the corporation that is created or incurred after the date on which the report, tax or penalty is due. Accordingly, Mr. Davis is individually liable for the taxes accrued after Maverick Underground, LLC forfeited its existence.

7. A delegate of the Secretary of the Treasury assessed against, and gave notice and demand for unpaid unemployment and employment taxes to Maverick Underground LLC, on the date of assessment, as shown on the table below:

TYPE OF TAX	TAX PERIOD ENDING	DATE OF ASSESSMENT	AMOUNT DUE THROUGH March 31, 2018
940	12/31/2012	05/06/2013	1,878.53
940	12/31/2013	05/05/2014	1,009.74
941	12/31/2011	04/02/2012	46,392.01
941	03/31/2012	07/02/2012	48,088.79
941	06/30/2012	10/08/2012	51,001.21
941	09/30/2012	12/31/2012	52,239.77
941	12/31/2012	04/01/2013	65,924.00
941	03/31/2013	07/01/2013	49,834.77
941	06/30/2013	09/30/2013	42,846.38
941	09/30/2013	01/06/2014	38,386.14
941	12/31/2013	03/10/2014	52,130.63
941	03/31/2014	06/16/2014	54,778.81
941	06/30/2014	09/22/2014	52,828.45
941	09/30/2014	01/05/2015	57,109.55
941	12/31/2014	04/13/2015	73,993.81
TOTAL			\$688,442.59

8. Proper notice of and demand for payment of the assessments referred to above was mailed on or about the date of the assessments.

9. The United States recorded a Notice of Federal Tax Lien against William Davis in the real property records of Bexar County, Texas on September 27, 2017. The United States recorded a Notice of Federal Tax Lien against Maverick Underground, LLC in the real property records of Bexar County, Texas on October 2, 2017.

COUNT I

(Reduce Assessments to Judgment)

10. Because the taxes described above in Paragraph 7 remain unpaid despite notice and demand for payment of the same, the United States is entitled to a judgment under 26 U.S.C. § 7402 that William Davis is indebted to the United States in the amount of \$688,442.59, plus additional prejudgment and post-judgment interest thereon from March 31, 2018, until paid, all pursuant to 28 U.S.C. § 1961(c)(1); 26 U.S.C. §§ 6601, 6621(a)(2) and 6622.

FOR THESE REASONS, the United States requests the Court to Order,

- A. That William R. Davis is indebted to the United States for the amount of \$688,442.59, plus interest from March 31, 2018; and
- B. That the United States have such further relief as this Court may deem just and proper, including its costs herein.

/s/ Michelle C. Johns
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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS		DEFENDANTS		
<p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p>		<p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p>		
<p>(c) Attorneys (Firm Name, Address, and Telephone Number)</p>		<p>Attorneys (If Known)</p>		
II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i>		III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i>		
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>		Citizen of This State <input type="checkbox"/> PTF <input type="checkbox"/> DEF Incorporated or Principal Place of Business In This State		
<input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>		Citizen of Another State <input type="checkbox"/> PTF <input type="checkbox"/> DEF Incorporated and Principal Place of Business In Another State		
		Citizen or Subject of a Foreign Country <input type="checkbox"/> PTF <input type="checkbox"/> DEF Foreign Nation		
IV. NATURE OF SUIT <i>(Place an "X" in One Box Only)</i>				
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	PROPERTY RIGHTS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
			SOCIAL SECURITY	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
			FEDERAL TAX SUITS	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
V. ORIGIN <i>(Place an "X" in One Box Only)</i>		<input type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district <i>(specify)</i> <input type="checkbox"/> 6 Multidistrict Litigation		
VI. CAUSE OF ACTION		Cite the U.S. Civil Statute under which you are filing (<i>Do not cite jurisdictional statutes unless diversity</i>): Brief description of cause:		
VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No
VIII. RELATED CASE(S) IF ANY		<i>(See instructions):</i> JUDGE DOCKET NUMBER		
DATE	SIGNATURE OF ATTORNEY OF RECORD			
FOR OFFICE USE ONLY				
RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.